

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NEW YORK CITY AND VICINITY DISTRICT
COUNCIL OF CARPENTERS,

Plaintiff,

- against -

SUKHMANY CONSTRUCTION INC.,

Defendant.

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ROSLYNN R. MAUSKOPF, United States District Judge.

ORDER ADOPTING REPORT
AND RECOMMENDATION
16-CV-6360 (RRM) (CLP)

Plaintiff New York City and Vicinity Council of Carpenters (“District Council”) commenced this action against defendant Sukhmany Construction Inc. (“Sukhmany”) under section 301(a) of the Labor Management Relations Act of 1947, as amended, 29 U.S.C. § 185(c), to confirm and enforce an arbitrator’s award rendered pursuant to a collective bargaining agreement between District Council and Sukhmany. (Am. Pet. (Doc. No. 6).) Sukhmany failed to appear for the arbitration hearing, and the arbitrator issued an award to District Council. (Am. Pet at ¶ 8, 10.) Sukhmany has not satisfied its obligations under the award. (Am. Pet at ¶ 15.) The defendant has not answered District Council’s petition or otherwise appeared in this case. On District Council’s application, the Clerk of Court entered default. (Entry of Def. (Doc. No. 13).) Subsequently, District Council moved for default judgment. (Mot. for Def. J. (Doc. No. 14).) The Court referred the motion to Magistrate Judge Pollak for a Report and Recommendation (“R&R”).

On January 29, 2018, Judge Pollak issued her R&R recommending that District Council’s motion be granted, but that their request for prejudgment interest be denied with leave to renew. (R&R (Doc. No. 16).) District Council renewed their request by letter to the Court, and on

February 6, 2018, Judge Pollak issued a Supplemental R&R recommending that prejudgment interest be awarded. (Supp. R&R (Doc. No. 19).) Judge Pollak reminded the parties that, pursuant to Federal Rule of Civil Procedure 72, any objections to the R&Rs must be filed within 14 days of receipt. (R&R at 17; Supp. R&R at 4.) District Council properly served the defendant copies of the R&Rs. (Doc. No. 18, 20.) No party has filed any objection, and the time to do so has since expired.

Pursuant to 28 U.S.C. § 636(b) and Rule 72, the Court has reviewed the R&R and the Supplemental R&R for clear error and, finding none, concurs with both in their entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, it is hereby ordered that default judgment be entered in favor of District Council as against Sukhmany in the total amount of \$16,112.73, comprised of:

- (i) \$11,988.32 for the original arbitration award;
- (ii) \$2,122.37 in prejudgment interest on the original award from February 19, 2016, to the date of Judge Pollak's Supplemental R&R, February 6, 2018;
- (iii) \$500 for the arbitration fee;
- (iv) \$675 in attorney's fees; and
- (v) \$827.04 in costs.

In addition, District Council is entitled to per diem prejudgment interest of \$3.48¹ from the date of the Supplemental R&R to the date judgment is entered.

The Clerk of Court is directed to enter judgment pursuant to this Order and to close this case. District Council is ordered to mail a copy of this Order and accompanying judgment to

¹ The per diem interest is calculated by multiplying the original arbitration award, plus the prejudgment interest until February 6, 2018, by the yearly rate (0.09), and dividing this amount by 365.

Sukhmany, and to file a letter with the Court confirming compliance within one week of the filing of this Order.

SO ORDERED.

Dated: Brooklyn, New York
March 21, 2018

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge